

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

BARBARA GRZANECKI

Plaintiff,

vs.

SMITH AND NEPHEW, INC., a Delaware
Corporation, ZIMMER US, INC., a Delaware
Corporation, and ZIMMER, INC., a Delaware
Corporation,

Defendants.

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Case No. 18-cv-00204

Judge Hon. John J. Tharp

**NOTICE OF WITHDRAWAL OF MOTION FOR
VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

NOW COMES the Plaintiff, BARBARA GRZANECKI, by and through her attorneys, Lucas and Cárdenas, P.C., before any trial or hearing has begun in the above-entitled cause, after notice to the Defendants, moves this Honorable Court to permit withdrawal of her motion for voluntary dismissal without prejudice and in support thereof, states the following:

1. Plaintiff has been diligent in her search to find an acceptable surgeon to perform her replacement surgery and has scheduled surgery for September 12, 2018.
2. Prior to the last case management hearing, before the Honorable John J. Tharp, Jr., Plaintiff's surgery had not been scheduled. Not having the surgery scheduled, Plaintiff felt it was in her best interest to voluntarily dismiss her claim with the right to refile in one year. [Dkt. 34].
3. At the hearing on the motion, Defendants objected to the right to refile in one year and sought a dismissal without a right to refile if the statute of limitations had not already refiled. Since the determination of the appropriate statute of limitations would be based on multiple factors including when Plaintiff knew or should have known there was a

cause of action, the motion to voluntarily dismiss this case exposes her to a potential motion to dismiss based on the statute of limitations. Exposing Plaintiff to a potential statute of limitations defense would be highly prejudicial. [Dkt. 35].

4. Plaintiff seeks to withdraw her motion for voluntarily dismiss without prejudice for the reason stated, *supra*.

WHEREFORE, the Plaintiff, BARBARA GRZANECKI, respectfully requests that this Honorable Court enter an Order permitting withdrawal of Plaintiff's motion for voluntary dismissal; and for any other relief this Honorable Court deems just and fair.

Respectfully Submitted,
LUCAS AND CÁRDENAS, P.C.,

By: /s/ Katherine A. Cárdenas
One of its Attorneys

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